IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 3486 of 2006(M)

PETITIONER:

PLANT LIPIDS (P) LTD.,
KADAYIRUPPU, KOLENCHERRY, ERNAKULAM,
REPRESENTED BY ITS DIRECTOR,
MARIAM GEORGE.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
VAIDHYUDI BHAVAN, THIRUVANANTHAPURAM.

2. THE SPECIAL OFFICER (REVENUE)
VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

3. ASSISTANT ENGINEER,
ESLECTRICAL SECTION, KOLENCHERY,
ERNAKULAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE BILL DATED 4.12.2004 ISSUED TO THE PETITIONER FOR THE ELECTRICITY CHARGES FOR THE MONTH OF NOVEMBER, 2004

EXT.P2 TRUE COPY OF THE LETTER OF THE 3RD RESPONDENT AND THE SITE MAHAZAR ISSUED BY THE 3RD RESPONDENT.

EXT.P3 TRUE COPY OF THE BILL DATED 1.1.2005 NO. 28/28/66/ADDL. ALONG WITH COVERING LETTER NO. HTB/28/2866/1612 DATED 1.1.2005 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE KSEB HIGH TENSION TARIFF REVISION ORDER 1999

EXT.P5 TRUE COPY OF THE ORDER OF REVIEW IN RP NO. 605/2005 IN WPC 1967/05 DSATED 22.8.2005

EXT.P6 STRUE COPY OF THE BANK GUARANTEE NO. 103/05 DATED 3.9.2005 WITH COVERING LETTER.

EXT.P6(a) TRUE COPY OF THE BANK GUARANTEE NO. 104/2005 DATED 12.9.2005 WITH COVERING LETTER.

EXT.P7 TRUE COPY OF THE REPORT DATED 23.9.2005 SUBMITTED BY THE CHIEF ELECTRICAL INSPECTOR OF KERALA TO THIS HON'BLE COURT.

EXT.P8 TRUE COPY OF THE JUDGMENT IN WPC 1967/2005 DATED 5.11.2005

EXT.P9 TRUE COPY OF THE ORDER DATED 28.12.2005 NUMBERED AS HTB 28/2866/05-06/2604 ISSUED BY THE 2ND RESPONDENT.

EXT.P10 TRUE COPY OF THE PETITION DATED 14.1.2006 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 3486 OF 2006

Dated this the 21st day of August, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSEB. Petitioner was served a penal bill for non-segregation of lighting load. This Court vide Ext.P8 judgment remanded the matter to the second respondent for decision by him. It is seen from Ext.P9 that second respondent has given findings in favour of the petitioner holding that petitioner has proper segregation for lighting and three phase meter was installed for recording consumption for lighting. The further finding is that certain equipments treated as part of the lighting load were eligible to be treated as equipments. In other words all the findings are in favour of the petitioner and second respondent found that penal bill was not tenable. However, in the operative portion he has after giving the above findings sent the matter back to the Deputy Chief Engineer, APTS for passing orders under clause 48(a) of Conditions of Supply. Obviously the direction in the last paragraph of Ext.P9 order is contrary to findings entered by the second respondent in favour of the petitioner.

W.P. is therefore allowed quashing Ext.P3 bill and Ext.P9 to the extent of direction issued to the Deputy Chief Engineer, APTS to reconsider the matter. However, I make it clear that if lighting load is not segregated in accordance with Rules at any time, respondents can take action. The Bank guarantee submitted by the petitioner will be released on production of a copy of this judgment by the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge